

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

LOWERY GRAY, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. 4:05-CV-1852 (CEJ)
	)	
COTTRELL, INC.,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on defendant's motion in limine to exclude testimony from all witnesses whom plaintiff has not properly disclosed under Fed. R. Civ. P. 26(a)(1). Plaintiffs have filed a memorandum in opposition to the motion and the issues are fully briefed.

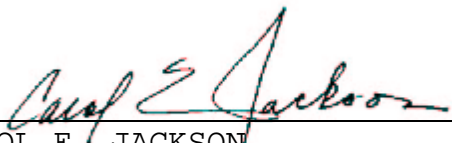
Typically motions in limine are filed ten days before the trial and are heard by the Court on the day of trial. That is because the parties have by then reached some certainty as to the witnesses they intend to call and the exhibits they intend to offer. The trial of this case is scheduled to begin on October 15, 2007. It is possible that the witnesses who are the subject of the motion in limine will not be called to testify or the parties may be able to reach an accord with respect to the issues raised in the instant motion. Consequently, the Court will deny the motion without prejudice. If it is appropriate to reassert the motion, the defendant may do so in accordance with the Amended Case Management Order entered on February 20, 2007.

The Court believes it important for the parties to be aware that the testimony of any witness who has not been disclosed in

accordance with Rule 26(a) of the Federal Rules of Civil Procedure will not be permitted. All parties must comply with the rule, and no party should expect to be excused from this obligation.

Accordingly,

**IT IS HEREBY ORDERED** that defendant's motion in limine [Doc. #103] is **denied without prejudice**.

  
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CAROL E. JACKSON  
UNITED STATES DISTRICT JUDGE

Dated this 14th day of August, 2007.